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of the State of California  
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5  
6 Attorneys for Complainant

7 BEFORE THE  
8 MEDICAL BOARD OF CALIFORNIA  
9 DIVISION OF MEDICAL QUALITY  
10 DEPARTMENT OF CONSUMER AFFAIRS  
11 STATE OF CALIFORNIA  
12

13 In the Matter of the Accusation )  
Against: )

14 MICHAEL R. CHIAROTTINO, M.D. )  
15 P. O. Box 930 )  
Bonita, CA 92002 )

16 Physician's and Surgeon's )  
17 Certificate No. G39328 )

18 Respondent. )  
19

NO. D-4531

DEFAULT DECISION

20 Respondent Michael R. Chiarottino, M.D., having been  
21 served on May 31, 1991 with the Accusation and Petition to Revoke  
22 Probation, Statement to Respondent, and Notice of Defense, as  
23 provided by sections 11503 and 11505 of the Government Code, and  
24 having acknowledged receipt of these documents on June 20, 1991,  
25 and having failed to file a Notice of Defense within the time  
26 allowed by section 11506 of said Code, that the default of said  
27 respondent having been duly entered, the Board having determined  
that respondent has waived his right to a hearing to contest the

merits of said Accusation and Petition to Revoke Probation; that said respondent is in default; and that the Board will take action on the Accusation and Petition to Revoke Probation, affidavits, and documentary evidence on file herein without a hearing, as provided by sections 11505(a) and 11520 of the Government Code; that Kenneth J. Wagstaff is the Executive Director of the Medical Board of California and made and filed the Accusation and Petition to Revoke Probation solely in his official capacity.

Upon the record, the Board makes the following findings of fact and determination of issues.

#### FINDING OF FACT

The facts and allegations set forth in the Accusation and Petition to Revoke Probation are true. Said Accusation and Petition to Revoke Probation is on file with the Medical Board of California, and the facts and allegations contained therein are incorporated by reference as if fully set forth herein. A copy of said Accusation and Petition to Revoke Probation is attached hereto and incorporated herein by reference.

#### DETERMINATION OF ISSUES

Based on the findings of fact stated above, respondent has committed acts constituting grounds for disciplinary action under Business and Professions Code sections 2234 and 2239.

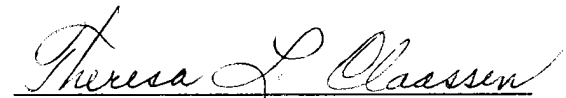
#### WHEREFORE, IT IS HEREBY ORDERED

1. Physician's and Surgeon's Certificate No. G39528 issued to Michael R. Chiarottino, M.D., is hereby revoked, and
2. Respondent shall not be deprived of making any further showing by way of mitigation, however, a showing must be

1 made in writing to the Medical Board of California, 1430 Howe  
2 Avenue, Sacramento, California 95825, prior to the effective  
3 dates of this revocation of his license pursuant to section 11520  
4 of the Government Code.

5 Dated 20th day of August, 1991.

6 This decision shall become effective on September 19,  
7 1991.

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10 THERESA CLAASSEN, Secretary/Treasurer  
11 DIVISION OF MEDICAL QUALITY  
12 Medical Board of California  
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8 MEDICAL BOARD OF CALIFORNIA  
9 DIVISION OF MEDICAL QUALITY  
10 DEPARTMENT OF CONSUMER AFFAIRS  
11 STATE OF CALIFORNIA  
12

13 In the Matter of the Accusation and ) NO. D-4531  
14 Petition to Revoke Probation )  
Against: )  
15 MICHAEL R. CHIAROTTINO, M.D. ) ACCUSATION AND PETITION  
P. O. BOX 930 ) TO REVOKE PROBATION  
16 Bonita, CA 92002 )  
17 Physician's and Surgeon's )  
Certificate No. G39528 )  
18 Respondent. )  
19

20 COMES NOW Complainant Kenneth Wagstaff, alleges:

21 1. He is the Executive Director of the Medical Board  
22 of California (hereinafter the "Board") and makes and files this  
23 accusation and petition to revoke probation solely in his  
24 official capacity.

25 LICENSE STATUS

26 2. On or about June 25, 1979, Physician's and  
27 Surgeon's Certificate No. G39528 was issued by the Board to

1 Michael R. Chiarottino, M.D. (hereinafter "respondent"). Said  
2 license is in a delinquent status having expired on May 31, 1989.

3 3. By a stipulated Decision, No. D-3971, effective  
4 January 18, 1990, respondent's license was revoked, said  
5 revocation stayed, and respondent was placed on probation for  
6 five years on certain terms and conditions. The conditions  
7 pertinent to this accusation and petition to revoke probation are  
8 as follows:

9 A. "Within 30 days of the effective date of this  
10 Decision, respondent shall contact the Division's Diversion  
11 Program for evaluation and shall successfully participate in and  
12 complete the treatment contract as recommended by the Division."  
13 (Condition 1.)

14 B. "Respondent shall immediately submit biological  
15 fluid testing, at respondent's cost, upon the request of the  
16 Board or its designee." (Condition 2.)

17 C. "Respondent shall not prescribe, administer,  
18 dispense, order, or possess any controlled substances as defined  
19 in the California Uniform Controlled Substances Act." (Condition  
20 3.)

21 D. "Should respondent leave California to reside or  
22 practice outside this state, respondent must notify the Board, in  
23 writing, of the dates of departure and return." (Condition 9.)

24 STATUTES

25 4. This accusation is made in reference to the  
26 following sections of the California Business and Professions  
27 Code:

1           A. Sections 2022 and 2234 provide, in part, that the  
2 Division may take action against all persons guilty of  
3 unprofessional conduct.

4           B. Section 2227 provides, among other things, that a  
5 licensee whose matter has been heard and who is found guilty, may  
6 have his license revoked, suspended, or placed on probation.

7           C. Section 2239 provides, among other things, that the  
8 use or prescribing for or administering to himself, of any  
9 controlled substance to the extent, or in such a manner as to be  
10 dangerous or injurious to the licensee, or to the extent that  
11 such use impairs the ability of the licensee to practice medicine  
12 safely, constitutes unprofessional conduct.

13           D. Valium is a Benzodiazepine derivative and a  
14 Schedule IV controlled substance pursuant to section 11057 (d)(7)  
15 of the Health and Safety Code.

16                   FACTUAL ALLEGATIONS

17           5. Respondent is subject to disciplinary action and  
18 revocation of probation on account of the following:

19           A. During the time that respondent was on probation,  
20 he continued to self-administer controlled substances.  
21 Respondent submitted urine samples on May 23, 1990, and October  
22 31, 1990. Both samples submitted tested positive for  
23 Benzodiazepines, a controlled substance commonly known as Valium.

24           B. While on probation, respondent left the State of  
25 California and returned to the State of Washington without  
26 notifying the Board in writing of his dates of departure and  
27 return.

1 C. On February 13, 1991, respondent was unsuccessfully  
2 terminated from the Division's Diversion Program for the  
3 following reasons:

4 1. "The physician has failed to comply with  
5 the treatment program designed by the Committee."

6 2. "The Committee determines that the  
7 applicant has not substantially benefitted from  
8 participation in the program or that the applicant's  
9 continued participation in the program creates too  
10 great a risk to the public health, safety, or welfare."

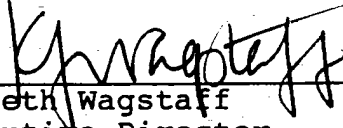
11 WHEREFORE, complainant prays that the Division hold a  
12 hearing on the matters alleged herein, and following said  
13 hearing, issue a decision:

14 1. Revoking or suspending Physician's and Surgeon's  
15 Certificate Number G39528, heretofore issued to respondent  
16 Michael R. Chiarottino, M.D.;

17 2. Revoking the probation imposed on respondent by the  
18 Board in Decision D-3971; and

19 3. Taking such other and further action as the  
20 Division deems necessary.

21 DATED: May 31, 1991

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23   
24 Kenneth Wagstaff  
25 Executive Director  
26 Division of Medical Quality  
27 Medical Board of California  
Department of Consumer Affairs  
State of California

Complainant